

REMARKS

Reconsideration is respectfully requested for claims 1-4, 6-10, and 22, which stand rejected as follows.

Claim 22 has been rejected under 35 U.S.C. § 102(e), as anticipated by U.S. Patent 6,859,780 to Cunningham. This rejection is respectfully traversed.

Claims 1-4 and 6 have been rejected under 35 U.S.C. § 103, as obvious over U.S. Patent 6,859,780 to Cunningham in light of U.S. Patent Application Publication 2003/0074225 to Borsand et al. This rejection is respectfully traversed.

Claims 7-10 have been rejected under 35 U.S.C. § 103, as obvious over the combination of U.S. Patent 6,859,780 to Cunningham and U.S. Patent Application Publication 2003/0074225 to Borsand et al in light of and U.S. Patent Application Publication 2002/0052760 to Munoz et al. This rejection is respectfully traversed.

The Cunningham Reference

In order to prevent repetitive arguments the Cunningham reference will be addressed with respect to both Claims 1 and 22, as it is applied to similar limitations in both claims.

Claims 1 and 22 require “obtaining a prescriptive history of a selected prescriptive medication purchaser.” Cunningham does not teach, disclose or even suggest obtaining a prescriptive history of a selected prescriptive

medication purchaser. The previous office action cites Col. 3, lines 4-10 and Col. 3, lines 54-67, as disclosing this. Lines 4-10 state in part “this system, as will be discussed in greater detail below, manages, tracks, and records selected transactions involving the participating prescribers, pharmacies and patients.” Cunningham relates to a system for managing and tracking the distribution of pharmaceutical products. As can be seen in Col. 3, lines 39 to 53, for example, these records are contemplated for the purpose of tracking a prescribers stock of a medication. The patient is merely a participant in the transaction that depletes the prescribers stock. Cunningham never discloses nor even suggests compiling a prescription history for a patient or a prescriptive medication purchaser. Col. 3 lines 54 to 67 of Cunningham are directed to an individual receiving a card with a set amount validations, or prescription refills. These prescription refills are directed to the future acquisition of prescriptions and cannot fairly be considered a prescription history of a selected purchaser. Further, the only useful information is the number of charges remaining. There is no teaching, disclosure, or suggestion that the number of used validations is tracked, monitored, or recorded in any way resembling a history.

In sharp contrast, Claims 1 and 22 each calls for a prescription history of a selected prescriptive medication purchaser to be generated. Further, there is no disclosure or suggestion in Cunningham to track the prescriptions or refills of an individual patient or purchaser as claimed in Claims 1 and 22.

Claims 1 and 22 each requires “generating from said prescription history of said selected purchaser one or more patterns which can be used by one or

more viewers of said prescriptive history to flag the possibility of prescriptive drug abuse.” The previous office action has cited Col. 3 lines 54 to 67 of the Cunningham reference as disclosing these features. The applicant respectfully disagrees for the following reasons.

As previously described, Cunningham does not disclose “obtaining a prescriptive history,” and certainly never discloses, or even suggests, generating a pattern from this history. No portion of Cunningham can fairly be described as generating a pattern based on the patient, or prescriptive medication purchasers, prescription history.

Further, Cunningham provides no teaching, disclosure, or even suggestion to use any pattern to flag the possibility of prescription abuse. Cunningham does not teach, disclose, or even suggest any means for indicating or determining a possibility of prescription abuse. Prescription abuse is not directly addressed by the Cunningham reference.

Still further, Cunningham provides no teaching, disclosure, or even suggestion of a viewer, or an individual who would be informed of the potential prescription abuse.

With respect to Claim 22, it is therefore respectfully submitted that the Cunningham patent, taken alone or in combination, does not provide a basis for rejection under 35 U.S.C. 102, because it does not disclose each and every element of the claimed invention. Further, the cited patents do not make up for the deficiencies of these teachings.

With respect to Claim 1, it is therefore respectfully submitted that neither the Cunningham patent nor the Borsand et al. publication, taken alone or in combination, provide a basis for rejection under 35 U.S.C. 103, because each element of Claim 1 has not been disclosed. The cited patents do not make up for the deficiencies of these teachings. Claims 2-4, and 6-10 directly or indirectly depend from Claim 1, and are therefore submitted to also be patentable for at least the reasons set forth above.

Cunningham in view of Borsand et al.

Claim 3 requires the “pharmacist utilizing said pharmaceutical computer data to compare said new prescriptive medication with respect to said prescriptive history of said selected prescriptive medication purchaser.”

Cunningham does not teach, disclose, or even suggest this limitation. Col. 3 lines 54 to 67 of Cunningham are directed to an individual receiving a card with a set amount of validations, or prescription refills. These prescription refills are directed to the future acquisition of prescriptions and cannot fairly be considered a prescription history of a selected purchaser. There is no teaching or suggestion to compare a prescriptive history with a new prescriptive medication.

New Claims

No new matter has been added through claims 23 and 24.

Newly added claims 23 and 24 require “the one or more patterns generated from the prescription history would indicate prescription duplication, or multi-source prescription abuse.” Cunningham discloses a card with a certain number of charges or validations available for refills. As previously explained, Applicant maintains this is not synonymous with a prescription history or with generating a pattern from the prescription history for reasons previously discussed. The card disclosed in Cunningham, as described at Col. 3 lines 54-67, may be taken to different locations and validated multiple times (for up to the number of refills on the card) in a short time period. Therefore the system disclosed in Cunningham is still susceptible to many of the same abuses as the prior art.

In sharp contrast, newly-added claims 23 and 24 generate a pattern from the prescription history that would indicate prescription duplication, or multi-source prescription abuse. These patterns would result in an indicator or flag when an individual attempts to procure multiple prescriptions. In this way, shortcomings of the prior art, including Cunningham, can be used to overcome or help prevent prescription abuse.

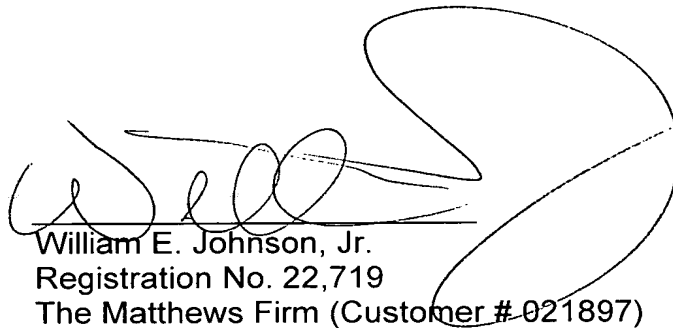
Conclusion

In light of the above amendments and discussion, Applicants respectfully submit that the application now stands in prima facie condition for allowance and courteously requests that this application be advanced to issue. The Applicants

are of the opinion that no additional fees are required with the submission of this response. However, if additional fees are required, the Commissioner is hereby respectfully authorized to deduct such fees from Deposit Account Number 13-2166. The Examiner is respectfully invited to call the undersigned attorney for the Applicants, at 713-355-4200, to discuss any matters that may arise, where such discussion may resolve such matters and place this application in condition for allowance.

Respectfully Submitted,

Date 12/26/07

A large, stylized handwritten signature in black ink, appearing to read 'W. E. Johnson, Jr.', is written over a horizontal line.

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